



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 174150

PRELIMINARY RECITALS

Pursuant to a petition filed on May 6, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services regarding Medical Assistance (MA). The hearing was held on June 28, 2016, by telephone.

The issue for determination is whether the county agency correctly denied an application for institutional Medicaid for failing to provide verification.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Attorney [REDACTED]
[REDACTED]
[REDACTED]
Kenosha, WI 53144

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. An application for community waivers Medicaid was filed by or on behalf of Petitioner in March 2016. That application was denied in April 2016 for lack of verification.

3. Petitioner and her husband created a family trust in September 1998. Petitioner and her husband were named as co-trustees with the survivor to continue as trustee. All income of the trust was to be paid to Petitioner and/or her spouse. The trust document indicates that the trust was funded with the property listed on Schedule A.
4. The agency sent a written request for verification dated March 23, 2016 that apparently asked for income and asset information and gave Petitioner until April 18, 2016 to provide it. Additional time was requested and the deadline for submitting information was extended to April 26, 2016. A second written request for verification, dated April 15, 2016, was sent to Petitioner and apparently asks for trust asset information. (The term ‘apparently’ is used as the verification request exhibits were 2 sided and only one side was scanned for the record.)
5. Petitioner and her family do not have, and could not find, any Schedule A for the trust. They did submit all the account information that they had by an April dated not specified in the agency summary (Exhibit # 2). A letter from [REDACTED] does indicate that the trust accounts closed. It does appear that it was submitted by the deadline.

DISCUSSION

Medicaid rules require recipients to verify relevant information, including assets. *Wis. Admin. Code, § DHS 102.03(3)(h)*. Agencies must allow at least 30 days from the date of application, or 10 days from the date of the request, whichever is later, to verify the information. *MEH, § 20.7.1.1*; see also *Wis. Admin. Code § DHS 102.03(1)*. Applicants and recipients must resolve questionable information, but workers must assist those who have “difficulty in obtaining” verification. Workers cannot deny eligibility to those who lack the ability to produce verification. *Id.*, 20.5. These instructions are consistent with medical assistance regulations. *Wis. Admin. Code, § DHS 102.03(1)*. Verification is often hard to gather, verification rules recognize these difficulties. Thus agencies can deny an application only “when the applicant or recipient is able to produce required verifications but refuses or fails to do so.” *Wis. Admin. Code, § DHS 102.03(1)*. That section goes on to state: “If the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements.”

Here the evidence does demonstrate that Petitioner’s representatives have submitted all information that they have as to Petitioner’s income and assets. They cannot submit that which they do not have, cannot find or does not exist. Of course the agency can always continue to check data exchanges and Petitioner’s representatives have an ongoing duty to submit any new information that becomes available. I am directing that the agency reverse the denial of the March 2016 institutional Medicaid application filed on behalf of Petitioner and complete processing of that application.

CONCLUSIONS OF LAW

That Petitioner’s representatives have complied with verification requests with all verification available to them thus the March 2016 Medicaid should not have been denied.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that, within 10 days of the date of this decision, it complete the processing of the March 2016 community waiver Medicaid application and certify Petitioner for Medicaid if she is found eligible.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 2nd day of August, 2016

\s _____
David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 2, 2016.

Racine County Department of Human Services
Division of Health Care Access and Accountability
Attorney [REDACTED]